

FILED  
CLERK'S OFFICE  
UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

2005 MAR 21 P 2:27 CASE NUMBER: 05-10007-MLW

JOANNE PARISI, individually and  
as Executrix of the Estate of  
LEONARDO PARISI,  
Plaintiff,

VS.

JOHN G. GRIBBEN, M.D.,  
Defendant.

U.S. DISTRICT COURT  
DISTRICT OF MASS

) APPEARANCE, ANSWER AND JURY  
) CLAIM OF THE DEFENDANT, JOHN G.  
) GRIBBEN, M.D., TO PLAINTIFF'S  
) COMPLAINT  
)  
)  
)

**THE DEFENDANT, JOHN G. GRIBBEN, M.D.,  
CLAIMS A TRIAL BY JURY AS TO ALL ISSUES**

**First Defense**

1. The defendant, John G. Gribben, M.D., neither admits nor denies the allegations of Paragraph No. 1 of plaintiff's Complaint because he is without knowledge or information sufficient to form a belief as to the truth of the said allegations.

2. The defendant, John G. Gribben, M.D., neither admits nor denies the allegations of Paragraph No. 2 of plaintiff's Complaint because he is without knowledge or information sufficient to form a belief as to the truth of the said allegations.

3. The defendant, John G. Gribben, M.D., admits that at all times relevant to this Complaint he was a duly licensed physician in the Commonwealth of Massachusetts and practiced medicine at the Dana Farber Cancer Institute. The defendant denies that he is currently licensed to practice in the Commonwealth.

4. The defendant, John G. Gribben, M.D., neither admits nor denies the allegations of Paragraph No. 4 of plaintiff's Complaint because he is without knowledge or information sufficient to form a belief as to the truth of the said allegations.

5. The defendant, John G. Gribben, M.D., neither admits nor denies the allegations of Paragraph No. 5 of plaintiff's Complaint because he is without knowledge or information sufficient to form a belief as to the truth of the said allegations.

**COUNT I**

6. The defendant, John G. Gribben, M.D., repeats and restates his answers to Paragraphs One through Five of plaintiff's Complaint as if expressly rewritten and set forth herein.

7. The defendant, John G. Gribben, M.D., admits the allegations of Paragraph No. 7 of Count I of plaintiff's Complaint.

8. The defendant, John G. Gribben, M.D., admits the allegations of Paragraph No. 8 of Count I of plaintiff's Complaint.

9. The defendant, John G. Gribben, M.D., denies the allegations of Paragraph No. 9 of Count I of plaintiff's Complaint.

10. The defendant, John G. Gribben, M.D., denies the allegations of Paragraph No. 10 of Count I of plaintiff's Complaint.

**COUNT II**

11. The defendant, John G. Gribben, M.D., repeats and restates his answers to Paragraphs One through Ten of plaintiff's Complaint as if expressly rewritten and set forth herein.

12. The defendant, John G. Gribben, M.D., denies the allegations of Paragraph No. 12 of Count II of plaintiff's Complaint.

**COUNT III**

13. The defendant, John G. Gribben, M.D., repeats and restates his answers to Paragraphs One through Twelve of plaintiff's Complaint as if expressly rewritten and set forth herein.

14. The defendant, John G. Gribben, M.D., denies the allegations of Paragraph No. 14 of Count III of plaintiff's Complaint.

**COUNT IV**

15. The defendant, John G. Gribben, M.D., repeats and restates his answers to Paragraphs One through Fourteen of plaintiff's Complaint as if expressly rewritten and set forth herein.

16. The defendant, John G. Gribben, M.D., denies the allegations of Paragraph No. 16 of Count IV of plaintiff's Complaint.

**Second Defense**

And further answering, the defendant says that the injuries and damages alleged were caused in whole or in part by negligence of the plaintiff's decedent, to a degree greater than any alleged negligence of the defendant.

**Third Defense**

And further answering, the defendant says that the plaintiff fails to allege a claim upon which relief can be granted. Wherefore, the defendant moves pursuant to Fed. R. Civ. P. 12(b)(6) that plaintiff's Complaint be dismissed, with costs to said defendant.

**Fourth Defense**

And further answering, the defendant says that if the plaintiff's decedent, underwent the medical procedures alleged, he did so after having been properly informed and cognizant of any material risks and uncertainties involved in said procedures, and plaintiff's decedent, exercised his informed consent to the performance of said procedures.

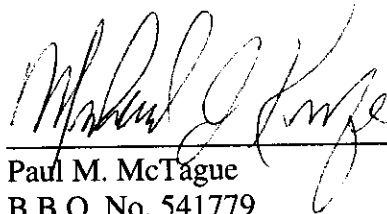
**Fifth Defense**

And further answering, the defendant says that any recovery for past and future medical expenses and/or for alleged conscious pain and suffering, if any, is limited pursuant to the provision of G.L. c. 231, §§60G and 60H.

**Sixth Defense**

And further answering, the defendant says that the injuries and damages alleged were not caused by the acts of any person for whose conduct the defendant was legally responsible.

WHEREFORE, the defendant, John G. Gribben, M.D., demands that the plaintiff's Complaint be dismissed and that judgment enter in favor of the defendant, John G. Gribben, M.D., together with costs.



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Paul M. McTague

B.B.O. No. 541779

Michael J. Keefe

B.B.O. No. 263751

Attorneys for the Defendant,

John G. Gribben, M.D.

MARTIN, MAGNUSON, MCCARTHY  
& KENNEY

101 Merrimac Street

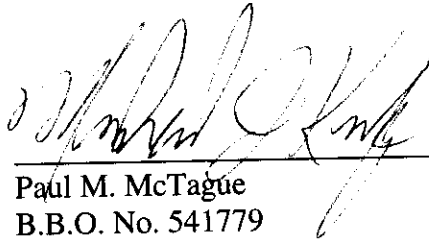
Boston, Massachusetts 02114

(617) 227-3240

CERTIFICATE OF SERVICE

I, Paul M. McTague, counsel for the defendant, John G. Gribben, M.D., hereby certify that on the 18<sup>th</sup> day of March, 2005, I served the above APPEARANCE, ANSWER AND JURY CLAIM OF THE DEFENDANT, JOHN G. GRIBBEN, M.D., TO PLAINTIFF'S COMPLAINT by mailing a copy thereof, postage prepaid to:

Barry. D. Lang, Esq.  
Zachary B. Lang, Esq.  
Barry D. Lang, M.D. & Associates  
One State Street, Suite 1050  
Boston, Massachusetts 02109



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Paul M. McTague  
B.B.O. No. 541779  
Michael J. Keefe  
B.B.O. No. 263751  
Attorneys for the Defendant,  
John G. Gribben, M.D.  
MARTIN, MAGNUSON, MCCARTHY  
& KENNEY  
101 Merrimac Street  
Boston, Massachusetts 02114  
(617) 227-3240